



NOV 29 2001

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Dellett and Walters
310 S.W. Fourth Avenue, Suite 1101
Portland, OR 97204

In re Application of FIJIKAWA et al
U.S. Application No.: 09/830,598
Int. Application No.: PCT/JP00/06038
Int. Filing Date: 06 September 2000
Priority Date: 09 September 1999
Attorney Docket No.: A-398
For: HALFTONE PHASE SHIFT PHOTOMASK
AND BLANKS FOR HALFTONE PHASE
SHIFT PHOTOMASK FOR PRODUCING IT

DECISION

This is in response to applicants' "Petition Under 37 CFR 1.182" filed 11 October 2001, requesting correction of the given name of the third inventor.

BACKGROUND

On 06 September 2000, applicants filed international application PCT/JP00/06038, which claimed priority of an earlier Japan application filed 09 September 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 22 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 09 May 2001.

On 27 April 2001, applicants filed national stage papers in the United States. The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1), an executed declaration, and a request to correct the name of the third inventor.

On 14 August 2001, this Office mailed a decision dismissing the request to correct the name of the third inventor on grounds that the discrepancy between the name listed in the declaration and that listed in the international application is the result of more than a mere typographical error or phonetic misspelling.

On 11 October 2001, applicants filed the present petition under 37 CFR 1.182.

DISCUSSION

The given name of the third inventor is listed in the international application as "Takashi" while the given name is listed in the declaration as "Takafumi". The petition states that the error is a typographical or transliteration error in the Japanese language because the Japanese character for "shi" is the same as the Japanese character for "fumi". However, this indicates that there was no error made in the Japanese language. Rather, the error purportedly occurred when the inventor's name was translated from Japanese into English. Note that a translation error is not equivalent to a typographical error (e.g. "Fujikawa" versus "Fijikawa") or a transliteration error (e.g. "George" versus "Jörg").


A proper petition under 37 CFR 1.182 must be accompanied by the requisite petition fee of \$130.00 as well as statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered and must also set forth that the mistake was an inadvertent error without deceptive intent. In the present case, applicants have provided the requisite petition fee but have not provided a statement from the inventor and a statement from the person having firsthand knowledge of the error.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.182 is DISMISSED without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.182". Failure to file a proper response in a timely manner will result in ABANDONMENT of the application. Extensions of time are available pursuant to 37 CFR 1.136.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.


Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 703-308-6614
Facsimile: 703-308-6459